

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re: Testosterone Replacement Therapy Products Liability Litigation Coordinated Pretrial Proceedings) No. 14 C 1748
) MDL No. 2545
)
)
(This document applies to all cases))

CASE MANAGEMENT ORDER NO. 50
(Decision on Besins' motion for summary judgment – dkt. 1736)

Some of the plaintiffs in this multidistrict litigation (MDL) proceeding who allege that they suffered injuries after taking the drug AndroGel have sued defendants Besins Healthcare Inc. (Besins Inc.) and Besins Healthcare, S.A. (Besins S.A.) (collectively, the Besins defendants) for those defendants' alleged involvement in the manufacture or sale of the drug. Of the plaintiffs whose cases were selected for bellwether trials, however, the only one to have sued the Besins defendants is plaintiff Robert Rowley. The Besins defendants have moved for summary judgment against Rowley, arguing that he lacks evidence to support any of the claims against them that have not already been dismissed.

In response to the Besins defendants' motion, Rowley concedes that the Court should grant summary judgment for Besins Inc. in his case because he lacks evidentiary support for any claim against that company. Rowley also concedes that he lacks evidence to support a claim for strict liability against Besins S.A. concerning its alleged manufacture or design of AndroGel. Finally, Rowley concedes that his only remaining claim against Besins S.A. is for negligence and that the Court should grant partial summary judgment on that part of that claim that pertains to manufacturing

defect resulting from Besins S.A.'s alleged negligence. Thus Rowley has conceded that the Court should grant summary judgment on all of his claims against the Besins defendants except for that portion of his negligence claim that is based on an alleged design defect.¹ In a separate ruling, however, the Court has granted summary judgment against the bellwether plaintiffs on all claims for negligent design defect. This leaves Rowley with no remaining viable claims against the Besins defendants, and the Court therefore grants those defendants' motion for summary judgment [dkt. no. 1736].



MATTHEW F. KENNELLY
United States District Judge

Date: May 8, 2017

¹ Plaintiffs in this MDL have already consented to dismissal of claims against the Besins defendants based on allegations of unlawful promotion or failure to warn. See *In re Testosterone Replacement Therapy Prod. Liab. Litig. Coordinated Pretrial Proc.*, 136 F. Supp. 3d 968, 972 (N.D. Ill. 2015).